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OFFICE OF PETITIONS

MORGAN LEWIS & BOCKIUS LLP
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WASHINGTON DC 20004

In re Application of :
Small, et al. :
Application No. 10/057,206 : **DECISION ON PETITION**
Filed: January 25, 2002 :
Attorney Docket No. 063254-5002US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 30, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned December 23, 2008 for failure to timely pay the issue and publication fees, as required by the Notice of Allowance and Fee(s) Due, mailed September 22, 2008. The Notice set a three month statutory period of time for reply. Notice of Abandonment was mailed January 15, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of payment of the issue fee and the publication fee, (2) the required petition fee; and (3) a proper statement of unintentional delay.

As to requirement (2), request for waiver of the petition fee, petitioners are advised that submission of the required petition fee is a prerequisite prior to treatment on the merits of any petition submitted pursuant to 37 CFR 1.137(b). Thus, the request for waiver of the fee cannot be granted. Further, failure to indicate the deposit account upon which the required fees could be drawn can be attributed to the attorney who submitted the Issue Fee Transmittal Form (PTOL-85b). As such, the applicants are bound by the mistakes caused by applicants' voluntarily chosen legal representatives. Link v. Wabash, 370 U.S. 626, 633-34 (1962).

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

This application is being referred to Office of Data Management for processing into a patent.

/ALEZIA M. BROWN/
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Office of Petitions